

**COUNTY OF KAUAI, PLANNING DEPARTMENT
4444 RICE STREET, LIHUE, KAUAI, HAWAII 96766**

MEMORANDUM

DATE: September 2, 2020
TO: Planning Commission Subdivision Committee
FROM: Clerk of the Commission
SUBJECT: 1st Addition to the Planning Commission Subdivision Committee 9/8/20 Agenda

I. NEW BUSINESS (For Action)

2. Final Subdivision Map Approval

- a. Subdivision Application No. S-2018-15 = *Kilauea Ohana Plateau, LLC*.
2. Request from Avery Youn (9/1/20) to become a party to this application and be allowed to intervene in the process and appeal the decision of the Planning Director to assure that action on the proposed final subdivision approval be postponed until the application be brought into compliance with both the Subdivision Ordinance and Ch. 205, HRS.

2574 TITCOMB ST.
KILAUEA, HI 96754
Email: averyyoun@gmail.com
Ph. (808) 639 7999

County of Kauai
PLANNING DEPT.

September 1, 2020

Glenda Nogumi-Streufert, Chairman
Roy Ho, Subdivision Chairman

20 SEP -1 A4:20

RE: S-2018-15 Kilauea Ohana Plateau LLC/County of Kauai

RECEIVED

Honorable Chairman and Commissioners,

As adjoining residents to the subject subdivision, and Pursuant to the Rules of Practice and Procedure of the Planning Commission: Ch. 4, Sec. 1-4-1, the Petitioner's interest qualifies as a "party" to the proceedings in that we reside within the Kilauea Estates Subdivision (TMK: 5-2-23:9, Unit B), located immediately west of the proposed subdivision and adjacent to it, and will be directly affected.

Chapter 9, Sec. 1-9-1, of the Rules of Practice and Procedure of the Planning Commission, "Appeals from Action of the Planning Director", allows a person to appeal an action of the Planning Director.

Ch.9, Article 5, Sec. 9-5.3 of the Subdivision Ordinance No. 175, County of Kauai, allows the filing of appeals to the Planning Commission of decisions of the Planning Director. In this case, the appeal is on the decision to approve Subdivision S-2018-15, Kilauea Ohana Plateau LLC, and the the placement of a portion of this subdivision into the Urban Land Use District boundary west of the Namahana District Boundary.

This is our 4th attempt to be placed on the Planning Commission agenda. Our first 3 attempts were rejected and not brought before this Commission;

1. On Aug. 12, 2019, a letter, along with a petition from the neighboring residents of the Kilauea Estates Subdivision was sent to Mr. Shawn Mahoney (Chairman), Mr. Roy Ho (Subdiv. Chairman) and Mr. Ka'aina Hull, Planning Director, informing of problems and issues relating to this subdivision and to a proposed Gather Credit Union Use Permit application on one of the proposed lots within this subdivision and requesting a reconsideration of the proposed application to resolve issues. This re-consideration request was never brought before this Commission.
2. On August 26, a letter was sent to Mr. Shawn Mahoney and Mr. Ka'aina Hull requesting reconsideration of the Gather Use Permit to address issues relating to this project and this letter also, was not brought before this Commission. This issue is directly related to the subject subdivision application in that it is located on a lot within the proposed subdivision, this lot of which is in violation of Ch. 205, HRs, the State Land Use Law.
3. On November 18, 2019, a letter was sent to Mr. Shawn Mahoney, Chairman and Mr. Ka'aina Hull re-iterating the issues of the subdivision and how a portion of it got placed into the Urban Land Use Classification without complying with Ch. 205, (State Land Use Law), bypassing approval from the

I.2.a.2. 

SEP 08 2020

Land Use Commission, the Planning Commission and the County Council. This letter also, was not brought before this Commission.

Therefore, pursuant to the above Sections of the Rules of Practice and Procedure of the Planning Commission, and Ch. 9 of the Subdivision Ordinance No. 175, County of Kauai, we request to be a party to intervene and or appeal the Planning Director's actions on these proceedings being that we are affected neighbors to this application before you.

Our request is based on the following issues:

URBAN DISTRICT DESIGNATION

1. Lots 11-A-2-B-1 and 11-A-2-B-2 are not in the Urban District, and were placed in the Urban Land Use District in violation of Ch. 205, HRS.
2. Lot 11-a-2-B-1 is less than one (1) acre in size and is therefore in violation of the minimum lot size requirement in the Agriculture District, which is one (1) acre minimum.
3. The method used by the Planning Director in designating this portion of the subdivision into the Urban District is in violation of Ord. PM-172-88, which designated the adjoining TMK: 5-2-04: por. 122, into the Urban District to create the Kilauea Estates Subdivision, an affordable Housing Project in conjunction with the Princeville Development.
4. This proposed subdivision is TMK: 5-2-05:23, and was not part of the land area applied for in the re-districting from agriculture to Urban as described in Ord. PM-172-88. Therefore, it cannot be arbitrarily included in the urban district as part of the Kilauea Estates subdivision.
5. Land Use boundary changes are site specific, meaning that it is submitted to the Land Use Commission with a specific tax Map Key number, defining the property. As mentioned above, the property in question was never a part of the Land Use change application submitted for the Kilauea Estates Subdivision.
6. Ord. PM-172-88 has conditions attached. Condition #3 specifically states"
"The proposal shall meet the criteria for "affordable housing" as defined by the County Housing Agency. The applicant shall work with the Housing Administrator to develop the sales program which will be monitored by that agency....."
The rear boundary submitted for the Kilauea Estates Subdivision is 729.4' as identified in the exhibit sent to the Land Use Commission. The Subdivision Map shows it at 736.59'. The Planning Director arbitrarily extended that boundary an additional 220' into the adjoining lot, which is this proposed subdivision. The Planning Director does not have the discretion or authority to make such a decision that increases the district boundary by 30%; it is an abuse of discretion or authority.
7. Lot 11-A-2-B-1 is proposed for the Gather Credit Union. The Urban designation, which is being challenged, as established by the Planning Director would therefore be in violation of Ord. PM-172-88, in that a credit union facility does not qualify as "affordable housing".
8. The Kilauea Post Office, directly across the street and south of the proposed Gather Credit Union Lot, was approved through a Special Permit, meaning that the Planning Department considered it to be in the Agriculture land Use District. We question how the Urban District can be arbitrarily granted to these proposed lots across the street and then jog back to the Namahana

District Boundary and not include the post office parcel, since it too is adjacent to a parcel that is part of the Kilauea Estates Subdivision.

SUBDIVISION ISSUES

1. Condition h of the Subdivision approval recommendation states:

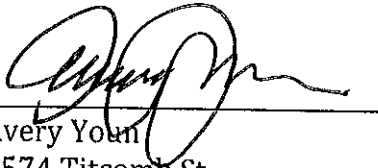
“ the applicant shall prepare and obtain construction plan approval for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion”.

Construction plans (Subdiv. Ord. Sec. 9-3.5) , Subdivision Agreement and bonding (Sec. 9-3.6) has not been provided for Roadway A, therefore , unless proper procedures are followed, final approval of this subdivision cannot be granted unless this issue is addressed. Even though the

County is a co-applicant on this application, it is not exempted from following the requirements of the Subdivision Ordinance and the State land Use Law, Ch. 205.

Based on the above justification, we request to become a party to this application and be allowed to intervene in the process and appeal the decision of the Planning Director to assure that action on the proposed final subdivision approval be postponed until the application be brought into compliance with both the Subdivision Ordinance and Ch. 205, HRS.

Submitted by,

A handwritten signature in black ink, appearing to read 'Avery Youn', is written over a horizontal line.

Avery Youn
2574 Titcomb St.
Kilauea, HI

EXHIBITS

- 1 AUG. 12, 2019 PETITION**
- 2 AUG. 26, 2019 REQUEST FOR RECONSIDERATION**
- 3. NOV. 18, 2019 2ND REQUEST TO RECONSIDER/APPEAL**
- 4. ORD. PM-172-88 AND TMK 5-2-04 AND 5-2-05 SHOWING DISTRICT BOUNDARIES**
- 5. TMK: 5-2-23 SHOWING AREA IN QUESTION**
- 6. POR. OF SUBDIV. SHOWING AREA IN QUESTION**

August 12, 2019

TO: Mr. Roy Ho, Subdivision Committee Chairman
Shawn Mahoney, Planning Commission Chairman
Mr. Ka'aina Hull, Planning Director

RE: SUBDIVISION APPLICATION 2018-15
GATHER SUBDIVISION
CLASS IV ZONING PERMIT Z-IV-2020-1
USE PERMIT U—2020-1
Gather Branch Office, Kilauea, Kauai, Hawaii

GENTLEMEN AND MEMBERS OF THE PLANNING COMMISSION:

Upon being advised that a Use Permit was granted by the Planning Commission meeting on August 13, 2019, for a branch office for the Gather Federal Credit Union, a petition (dated August 12, 2019) was sent to the Planning Department requesting that conditions be attached to the approval of the project to control or limit the times when construction should begin and end. Upon further inquiry, the following was discovered:

1. Although Condition 1l of the Use Permit approval exempts the project from the "one time" agricultural subdivision restriction for "public utility purposes", the creation of seven (7) "residential lots" (as noted on the Subdivision Report) on agricultural zoned lands does not meet the criteria for a public utility purpose.
2. Lot 11-A-2-B-7 is incorrect, and has already been CPR'd and sold off (See attached CPR map), however the subdivision approval grants this lot five additional dwelling units per condition 1f, which means that it adds density and therefore does not qualify for an agricultural re-subdivision exemption.
3. The creation of four (4) additional agricultural lots (11-A-2 -B-3, 4, 5 & 6), even with no density as restricted in condition 1f, also does not qualify for an exemption from the one-time agricultural subdivision restriction because it provides ADDITIONAL agricultural lots, also meaning that it cannot qualify for an exemption. Please be aware that once approved, these lots can be sold, and if so, "barns" or "equipment storage shed", etc., can be applied for building permits. The Planning Department already has an enforcement issue with agricultural buildings, workshops or barns in the Agricultural District that are being used as residences, in violation of the CZO.
4. The proposed subdivision provides roadways, however, there are no construction plans or subdivision agreement that is usually provided when applying for a subdivision. Therefore, it is not exempted from or in compliance with the Subdivision Ordinance of the County of Kauai, especially since no "Modification of Requirements" per Sec. 9-4.2 of the Subdivision Ordinance, was applied for. A subdivision that creates roadway lots with no improvements violates both the subdivision ordinance and the CZO.
5. The roadway lots create legal access to the proposed four (4) lots noted in Item 3 above, and there are no restrictions on the subdivision approval preventing these

EXHIBIT 1

lots to be sold or built upon. Another problem is that these lots now have unimproved access.

6. The interpretation that ZA-88-4, includes Residential zoned property west of the Kilauea Estates Subdivision is hereby challenged, and a request for a boundary interpretation from the Land Use Commission should be provided to justify the conclusion that such residential zoned property exist. From my experience, the ZA was for the purpose of providing employee housing for Princeville employees, and not to extend into the Agricultural District west of the Namahana/Kilauea boundary line.

Please be advised we, or the community are not against the Use Permit to allow Gather to provide a branch office to serve Kilauea, but to assure that its processed in and approved legally, in compliance with both the Subdivision Ordinance and the CZO. This is possible, however, the subdivision need to be modified to:

- a. Re-configure Lot 11-A-2-B-7 to include the CPR'd Units;
- b. Removal of the four (4) additional agricultural lots;
- c. Create a roadway lot(s) only through the Agricultural exemption and the Gather Credit Union Lot through a Variance and Use Permit.

For the above reasons, we ask that the Planning Commission reconsider and review Subdivision Application 2018-15 to address the above concerns, and process our request in accordance to Ch. 9 of the Rules of Practice and Procedure of the County of Kauai Planning Commission.



Avery Young

2574 Titcomb St., Kilauea, HI

EXHIBITS

- 1 AUG. 12, 2019 PETITION**
- 2 AUG. 26, 2019 REQUEST FOR RECONSIDERATION**
- 3. NOV. 18, 2019 2ND REQUEST TO RECONSIDER/APPEAL**
- 4. ORD. PM-172-88 AND TMK 5-2-04 AND 5-2-05 SHOWING DISTRICT BOUNDARIES**
- 5. TMK: 5-2-23 SHOWING AREA IN QUESTION**
- 6. POR. OF SUBDIV. SHOWING AREA IN QUESTION**

August 12, 2019

TO: Honorable Shawn Mahoney, Chairman
Kauai Planning Commission
Mr. Ka'aina Hull, Planning Director

RE: REQUEST FOR RECONSIDERATION
CLASS IV ZONING PERMIT Z-IV-2020-1
USE PERMIT U—2020-1
Gather Branch Office, Kilauea, Kauai, Hawaii

Honorable Chairman, Director and Members of the Planning Commission:

At the Planning Commission meeting on August 13, 2019, the above applications were approved for a branch office for the Gather Federal Credit Union. The attached letter requesting that conditions be attached to the approval of the project to control or limit the times when construction should begin and end, was sent to the Planning Director before the hearing, however, none of the suggestions were brought before the Commission for review or consideration, nor was any conditions limiting construction times placed on the approval.

We ask for this commission to make a motion to reconsider the approval action granted on August 13, 2019, so that a condition can be added that would limit daily construction start and end times, and to disallow construction work on weekends and holidays. The following reasons are in support of our request:

1. Since construction started on the Kilauea Lighthouse Village, its been over 3 years that we, the residents of Kilauea Estates Subdivision, have been putting up with the dust, construction noise, and loud rumbling sounds of heavy equipment and its irritating beeping sounds early in the morning and throughout the entire day;
2. Many times we were awakened by the heavy equipment engine noises and beeping before 7:00 a.m. and sometimes it did not end till after 6:00 p.m;
4. Construction work also occurred on weekends, disrupting the peace and quiet expected on weekends by neighboring residents after working all week long;
3. We have also had to listen to the loud vulgar, swearing of the construction workers all day long.
4. We have endured this inconvenience and disruption with minimal complaint, and now that the Lighthouse Village project is nearing completion, we, the neighboring residents were looking forward to some respite, normalcy and some peace and quiet after enduring the construction activity over the last 3 years.
5. The new Gather Federal Credit Union project means that we have to endure another 2 years of construction activity and be subjected to the same inconvenience caused by the noise, dust, loud machines, beeping and swearing that occurred during construction of the Lighthouse Village.

EXHIBIT 1

For the above reasons, we ask that the Planning Commission reconsider the application and add conditions of approval of the project that will protect the neighboring residents from the experience we just went through, putting up with, at inappropriate times, the noise and inconvenience that we just experienced over the last 3 years. Please add the following conditions"

1. There should be no work on weekends and on major holidays.
2. There should be no machinery, generators, loud saw noises before 8:00 a.m. or after 4:00 p.m., especially beeping of machinery in the morning.
3. There should be a wall constructed between the project and the residential dwellings to minimize dust and noise. Please note that the installation of a "Living Wall" between the Kilauea Lighthouse Village and the Kilauea Estates Subdivision was represented by the developer during the hearing process for that project, but was never constructed.

The following are owners within the Kilauea Estates Subdivision:

NAME	ADDRESS
Heidi Beers-Hill	4236 Kanikele Kilauea, HI
Leila Hankinson (Leila Hank)	4230 Kanikele St. Kilauea, HI
Lori Gardner	4224 Kanikele Street, Kilauea, HI
Ralph Gryalva	4222 Kanikele Street 96754
Natalie Ferrante	2534 Titcomb St. 96754
Elena Jarinar Gillespie	2570 Titcomb St. Kilauea HI 96754
Yantini Wood	2567 Titcomb St. Kilauea HI 96754
Matt Wood	2567 Titcomb St. Kilauea HI 96754
Jeanne Thompson	2574 Titcomb St. Kilauea 96754
Jeff Aguinaldo	4190 Kanikele St. Kilauea 96754
Ronald Chittenden	4210 KAWI KAPA, KILAUEA 96754
Michael Yardley	4211 Kanikele St. 96754
Sarah Asuncion	4205 Kanikele St. 96754
Ralph Rosefe	4218 Kanikele St. 96754
Quinn Merle-Hen 2	4213 Kanikele St 96754
Rayla Matrushura	4242 Kanikele Street 96754

For the above reasons, we ask that the Planning Commission reconsider the application and add conditions of approval of the project that will protect the neighboring residents from the experience we just went through, putting up with, at inappropriate times, the noise and inconvenience that we just experienced over the last 3 years. Please add the following conditions"

1. There should be no work on weekends and on major holidays.
2. There should be no machinery, generators. loud saw noises before 8:00 a.m. or after 4:00 p.m., especially beeping of machinery in the morning.
3. There should be a wall constructed between the project and the residential dwellings to minimize dust and noise. Please note that the installation of a "Living Wall" between the Kilauea Lighthouse Village and the Kilauea Estates Subdivision was represented by the developer during the hearing process for that project, but was never constructed.

The following are owners within the Kilauea Estates Subdivision:

NAME	ADDRESS
Kaniela Matsushima	4242 Kanikele St.
John Johnson	4233 Kanikele St.
Paula Johnson	4233 Kanikele St.
Aubrey Summers	4229 Kanikele St.
STEVE DUKICH	4225 KANIKELE ST.
Ashley Downing	2253 Titcomb St.
hymn Akopu	2531 Titcomb St
Mitchell Akopu	2531 Titcomb St
Anne Dorn	2523 Titcomb St
Jeff Dorn	2523 Titcomb St
Carl Hume	2513B Titcomb St.
Frank Hume	251 Titcomb
MARK STROH	2504 Titcomb ST.
Dale Jacobs	2508 Titcomb St.
PAT NAVARRO	2524 Titcomb St
Tom Patch	2520 Titcomb St

August 26, 2019

TO: Honorable Shawn Mahoney, Chairman
Kauai Planning Commission
Mr. Ka'aina Hull, Planning Director

RE: REQUEST FOR RECONSIDERATION
CLASS IV ZONING PERMIT Z-IV-2020-1
USE PERMIT U—2020-1
Gather Branch Office, Kilauea, Kauai, Hawaii

Honorable Chairman, Director and Members of the Planning Commission:

A petition was sent to the Planning Department on August 12 and a hard copy dropped off on August 19, 2019, requesting reconsideration per Sec. 1-2-19 of the Rules of Practice and Procedure of the County of Kauai Planning Commission. The purpose for the reconsideration request is to place conditions on the approval of the project to control or limit the times when construction should begin and end, and is clearly explained in the attached petition, signed only by residents living in the neighboring Kilauea Estates Subdivision.

We ask for this commission to make a motion to reconsider the approval action granted on August 13, 2019, so that a condition can be added that would limit daily construction start and end times, and to disallow construction work on weekends and holidays.

Sincerely,



Avery Youn, Resident
2574 Titcomb St., Kilauea

EXHIBIT 2

November 18, 2019

TO: MR. Shawn Mahoney, Planning Commission Chairman
Mr. Ka'aina Hull, Planning Director

RE: SUBDIVISION APPLICATION 2018-15
KILAUEA OHANA PLATEAU, LLC AND COUNTY OF KAUAI
TMK: 5-2-05:23
Kilauea, Kauai, Hawaii

GENTLEMEN AND MEMBERS OF THE PLANNING COMMISSION:

The above subject subdivision was granted tentative subdivision approval on September 11, 2018, for the creation of a seven (7) lot Agricultural Subdivision. It is a re-subdivision of Lot 11-A-2-B, a 179.437 ac. remnant parcel (Namahana Acres) of a previously developed Agricultural Subdivision originally approved in 197__.

Pursuant to the Rules of Practice and Procedure of the Planning Commission: Ch. 4, Sec. 1-4-1, the Petitioner's interest qualifies as a "party" to the proceedings in that he resides within the Kilauea Estates Subdivision (TMK: 5-2-23:9, Unit B), located immediately west of the proposed subdivision and adjacent to it, and will be directly affected.

1. Upon being notified that a Use Permit was granted by the Planning Commission meeting on August 13, 2019, for a branch office for the Gather Federal Credit Union (CLASS IV ZONING PERMIT Z-IV-2020-1, USE PERMIT U—2020-1). The petitioner submitted a petition (dated August 12, 2019) signed by residents in the neighboring Kilauea Estates Subdivision to the Planning Department to reconsider the action and include conditions to control or limit the times when construction should begin and end, on the basis that the residents within the adjacent Kilauea Estates Subdivision recently endured three (3) years dust and heavy equipment noise in the early hours of the morning, late afternoons and on weekends, during construction of the Kilauea Lighthouse Village. The petition to reconsider was not addressed by the Planning Commission, and therefore, no conditions to mediate the residents concerns were placed on the approval of the Credit Union project during its construction period.

2. Upon review of the approval of CLASS IV ZONING PERMIT Z-IV-2020-1 and USE PERMIT U—2020-1 for the Credit Union Building, it was noted that the proposed subdivision is within the Agricultural Land Use Classification and zoned Agriculture (See Ord. PM-173-88); and that the proposed Lot 11-A-2-B-1 is only 0.57 acres in size and part of a proposed seven (7) lot subdivision, which is a re-subdivision of a previously approved agricultural subdivision.

3. The proposed subdivision does not meet the criteria of Sec. 8-8.3 (c), "Limitations on Resubdivision of Any Parcel in an Agriculture District Subsequent to September 1, 1972 shall not be resubdivided unless the parcel is transferred to the Urban or Rural Districts under the provisions of the State Land Use Law and is

EXHIBIT 3

transferred to a use district other than Agriculture or Open under the provisions of this ordinance, in that:

a. Subdivision, or re-subdivision of Lot 11-A-2-B does not meet the criteria in the above section in that the lot was not transferred to the Urban or Rural District.

b. Pursuant to Condition 1 of the approved Use and Class IV zoning permits, the subdivision was processed under Sec. 8-8.3(c)(3), "Subdivision requested for public utility purposes", as an exemption from the "one time" agricultural subdivision restriction. The "public utility purpose" for this proposed subdivision was to accommodate a Kilauea bypass road extending from Keneke St. to Kuhio Highway, connecting in the vicinity of the Kilauea Mini-Golf site. To re-subdivide a previously subdivided agricultural lot for that reason may be justifiable, however in reading the definition of a "Public Utility" as defined in CH. 269-1, HRS, Definitions, it is questionable if such purpose qualifies as a "Public Utility".

c. The subdivision creates seven (7) lots, two resulting from the creation of bypass roadway, another two resulting from creating a multi-use path lot, two additional lots, one at 0.50 acres upon which is proposed a private commercial enterprise (Credit Union) and the other to the north containing 1.878 acres; the 7th lot (Lot 11-A-2-B-7) is the remnant piece, which already contains four (4) CPR'd units (Namahana Agricultural Condominium).

d. The granting of additional lots does not qualify as "a public utility purpose" by definition and therefore cannot be approved. Furthermore, such action does not meet the criteria established in Sec. 8-8.3(c), in that the creation of additional lots would be a violation of the "one time" agricultural subdivision limitation.

e. The proposed lot 11-A-2-B-1, consisting of 0.50 acres, upon which the Credit Union is to be built upon, and Lot 11-A-2-B-2 (1.5 acres) are located within the Agricultural Land Use Classification (refer to Ord. PM-173-88) and zoned Agriculture, and therefore does not meet the criteria established in Sec. 8-8.3(b)(1)(E) of the Comprehensive Zoning Ordinance, in that the minimum lot size cannot be smaller than five (5) acres.

f. Justification for creation of these additional lots appears to be a limitation on density, as delineated in Condition 1f of the tentative subdivision approval density, whereby "Newly created lots 11-A-2-B-3 to 11-A-2-B-6 shall have no dwelling density". It appears that Sec. 8-8.3(c)(4) of the CZO is used to justify the creation of additional lots by limiting density, however it applies to "Consolidation and re-subdivision of properties where no additional lots or parcels are created that the resulting properties would not permit greater density" (emphasis added). This subdivision is not a consolidation and re-subdivision and the section clearly states that no additional lots can be created.

4. The proposed subdivision provides roadways, however, when checking with the Public Works Department, there were no construction plans or subdivision agreement submitted for review and approval, as required by the Subdivision Ordinance. A "Modification of Requirements" per Sec. 9-4.2 of the Subdivision Ordinance, was not a part of the application; therefore, the subdivision is not exempted from or in compliance with the Subdivision Ordinance of the County of Kauai. A subdivision that creates roadway lots with no improvements and/or subdivision agreement violates both the subdivision ordinance and the CZO.

5. The roadway lots proposed did not include road/drainage improvements, but it does create legal access to the proposed additional lot through unimproved roadway(s), therefore not in compliance with the Subdivision Ordinance.

6. Chapter 9, Sec. 1-9-1, of the Rules of Practice and Procedure of the Planning Commission, "Appeals from Action of the Planning Director", allows a person to appeal an action of the Planning Director.

7. Ch. 8, Article 5, Sec. 9-5.3 of the Subdivision Ordinance, County of Kauai, allows the filing of appeals to the Planning Commission of decisions of the Planning Director. In this case, the appeal is on the decision to approve Subdivision S-2018-15, Kilauea Ohana Plateau LLC, and the urban district boundary west of the Namahana District Boundary.

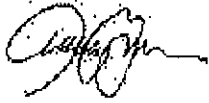
8. The interpretation that ZA-88-4 includes Residential zoned property west of the Kilauea Estates Subdivision and the Kilauea Lighthouse Village is hereby challenged, and a request for a boundary interpretation from the Land Use Commission should be provided to justify the conclusion that such residential zoned property exist. The petitioner has submitted a file plan map and the original ZA-88-4 Land Use Change and Zoning application, obtained from the Land Use Commission office, indicating the metes and bounds location of the Urban/Agricultural Land Use District Boundary.

9. The petitioner believes that the creation of a bypass road right of way can still be established utilizing Sec. 8-8.3(c), exempting the subdivision provided it only creates two agricultural (2) lots and a roadway lot; the multi-use path can be established through an easement.

10. The exemption from providing roadway improvements can be achieved by applying for a "Modification of Requirements" as provided for in the Subdivision Ordinance, especially if the roadway is to address the community concern for a Kilauea bypass road, which now appears to be a government funded project, of which the provision of capital improvement funds and construction can be obtained in the future.

The creation of a lot to accommodate the Gather Credit Union can be addressed through a Variance and Use Permit application.

For the above reasons, we ask that the Planning Commission to amend Subdivision Application 2018-15 to address the above concerns, and process our request in accordance to Ch. 9 of the Rules of Practice and Procedure of the County of Kauai Planning Commission.

A handwritten signature in black ink, appearing to read 'Avery Youn', with a stylized flourish at the end.

Avery Youn
2574 Titcomb St.,
Kilauea, HI 96754

A BILL FOR AN ORDINANCE AMENDING THE STATE LAND
USE DISTRICT BOUNDARY FOR TMK: 5-2-04: Por. 102
(Kauai Realty, Inc.)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. The designation of the State Land Use District for that certain area in Kilauea, Kauai, identified as TMK: 5-2-04: Por. 102, as delineated on the map attached hereto (Exhibit A-88-4) and made a part hereof, is hereby amended from "Agricultural District (A)" to "Urban District (U)", as recommended by the Planning Commission subject to the following conditions:

1. Approval of any subdivision or development will be dependent on the adequacy of the water source, storage and transmission facilities existing at that time. Presently, water line improvement alternatives as recommended by the County Water Department must be constructed prior to any development. Development shall mean issuance of any building permit for potential multi-family units or final subdivision approval.
2. Requirements and recommendations of the State Department of Health shall be met with respect to sewage disposal.
3. The proposal shall meet the criteria for "affordable housing" as defined by the County Housing Agency. The applicant shall work with the Housing Administrator to develop the sales program which will be monitored by that agency. For a period of one (1) year after final approval of the subdivision, the lots shall be offered to Kauai residents and first-time buyers, with a preference given to those employed on the North Shore. The list of purchasers shall be submitted to the Housing Administrator for verification.
4. The applicant shall commence substantial construction or obtain final subdivision approval within two (2) years from Council approval, unless circumstances beyond its control prevent compliance of this time restriction. Financial difficulty shall not be a consideration for an extension of time. In the event that circumstances beyond its control prevent compliance with this time requirement, the applicant shall petition the Planning Commission for an amendment to this condition. "Substantial construction" shall mean at least completion of all site work and foundations. If, the applicant fails to accomplish substantial construction, as herein defined, or obtain final subdivision approval within the required time period, the County shall initiate an application to reclassify the State Land Use District Boundary for the subject property to "Agricultural District (A)".

EXHIBIT 4

5. The applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

SECTION 2. Pursuant to the State Land Use District Boundary Amendment Ordinance, the County Planning Director is directed to transmit this ordinance to the Land Use Commission and the State Department of Business and Economic Development within sixty (60) days from the effective date of this ordinance.

SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY: /s/
MAXINE CORREA
(By Request)

DATE OF INTRODUCTION:

March 1, 1988
Lihue, Kauai, Hawaii

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 1196, Draft 1, which was passed on second and final reading by the Council of the County of Kauai at its meeting held on May 17, 1988, by the following vote:

FOR ADOPTION: Asing, Correa, Fukushima, Munechika,
Tehada, Yukimura, Kouchi

TOTAL - 7,

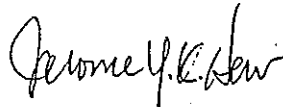
AGAINST ADOPTION: None

TOTAL - 0,

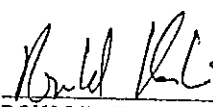
ABSENT & NOT VOTING: None

TOTAL - 0.

Lihue, Hawaii
May 18, 1988


JEROME Y.K. HEW
County Clerk, County of Kauai

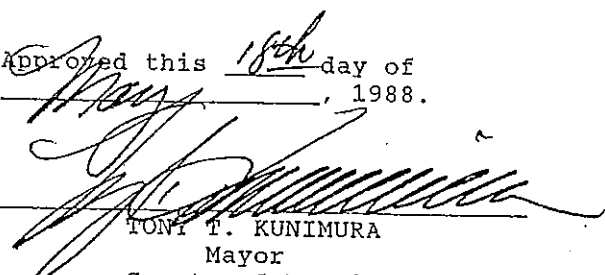
ATTEST:



RONALD KOUCHI
Chairman & Presiding Officer

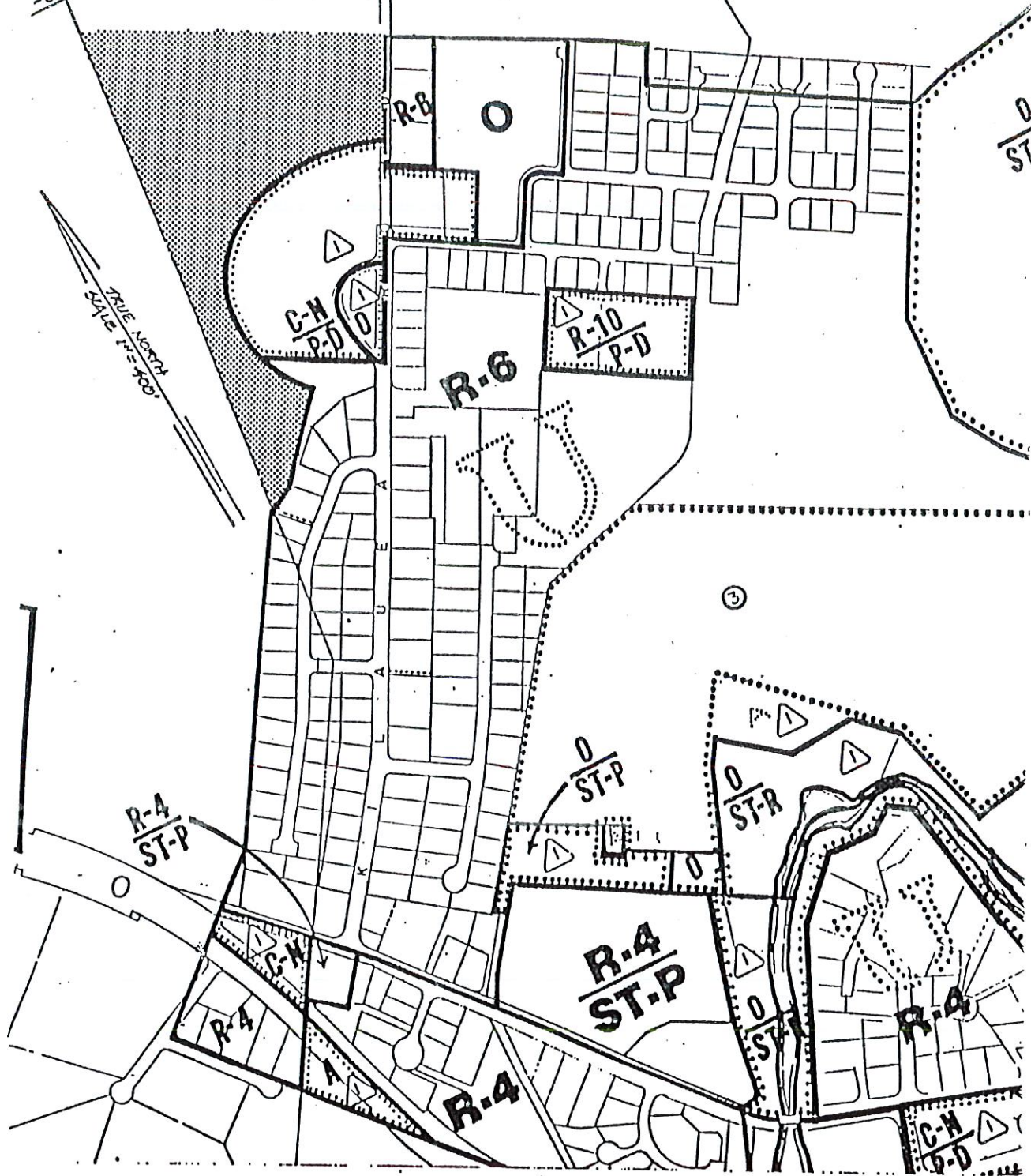
DATE OF TRANSMITTAL TO MAYOR:
May 18, 1988

Approved this 18th day of
May, 1988.



TONI T. KUNIMURA
Mayor
County of Kauai

Ord. No. PM-67-
 [8] Ord. No. PM-75-81
 DEVELOPMENT PLAN
 -86 Ord. No. PM-139-86



LEGEND.

Proposed District Boundary Amendment
 from Agriculture District to Urban District

LOCATION SHOWING
 PROPOSED LUC DISTRICT BOUNDARY AMENDMENT
 FROM

A BILL FOR AN ORDINANCE AMENDING THE STATE LAND
USE DISTRICT BOUNDARY FOR TMK: 5-2-04: Por. 102
(Kauai Realty, Inc.)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. The designation of the State Land Use District for that certain area in Kilauea, Kauai, identified as TMK: 5-2-04: Por. 102, as delineated on the map attached hereto (Exhibit A-88-4) and made a part hereof, is hereby amended from "Agricultural District (A)" to "Urban District (U)", as recommended by the Planning Commission subject to the following conditions:

1. Approval of any subdivision or development will be dependent on the adequacy of the water source, storage and transmission facilities existing at that time. Presently, water line improvement alternatives as recommended by the County Water Department must be constructed prior to any development. Development shall mean issuance of any building permit for potential multi-family units or final subdivision approval.
2. Requirements and recommendations of the State Department of Health shall be met with respect to sewage disposal.
3. The proposal shall meet the criteria for "affordable housing" as defined by the County Housing Agency. The applicant shall work with the Housing Administrator to develop the sales program which will be monitored by that agency. For a period of one (1) year after final approval of the subdivision, the lots shall be offered to Kauai residents and first-time buyers, with a preference given to those employed on the North Shore. The list of purchasers shall be submitted to the Housing Administrator for verification.
4. The applicant shall commence substantial construction or obtain final subdivision approval within two (2) years from Council approval, unless circumstances beyond its control prevent compliance of this time restriction. Financial difficulty shall not be a consideration for an extension of time. In the event that circumstances beyond its control prevent compliance with this time requirement, the applicant shall petition the Planning Commission for an amendment to this condition. "Substantial construction" shall mean at least completion of all site work and foundations. If the applicant fails to accomplish substantial construction, as herein defined, or obtain final subdivision approval within the required time period, the County shall initiate an application to reclassify the State Land Use District Boundary for the subject property to "Agricultural District (A)".

EXHIBIT 4

5. The applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

SECTION 2. Pursuant to the State Land Use District Boundary Amendment Ordinance, the County Planning Director is directed to transmit this ordinance to the Land Use Commission and the State Department of Business and Economic Development within sixty (60) days from the effective date of this ordinance.

SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY: /s/
MAXINE CORREA
(By Request)

DATE OF INTRODUCTION:


March 1, 1988
Lihue, Kauai, Hawaii

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 1196, Draft 1, which was passed on second and final reading by the Council of the County of Kauai at its meeting held on May 17, 1988, by the following vote:

FOR ADOPTION: Asing, Correa, Fukushima, Munechika, Tehada, Yukimura, Kouchi	TOTAL - 7,
AGAINST ADOPTION: None	TOTAL - 0,
ABSENT & NOT VOTING: None	TOTAL - 0.

Lihue, Hawaii
May 18, 1988


JEROME Y.K. HEW
County Clerk, County of Kauai

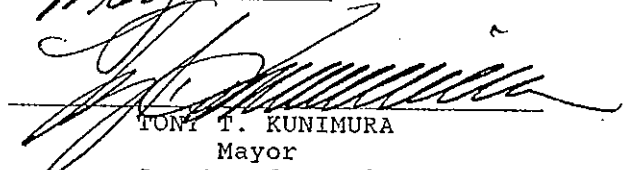
ATTEST:



RONALD KOUCHI
Chairman & Presiding Officer

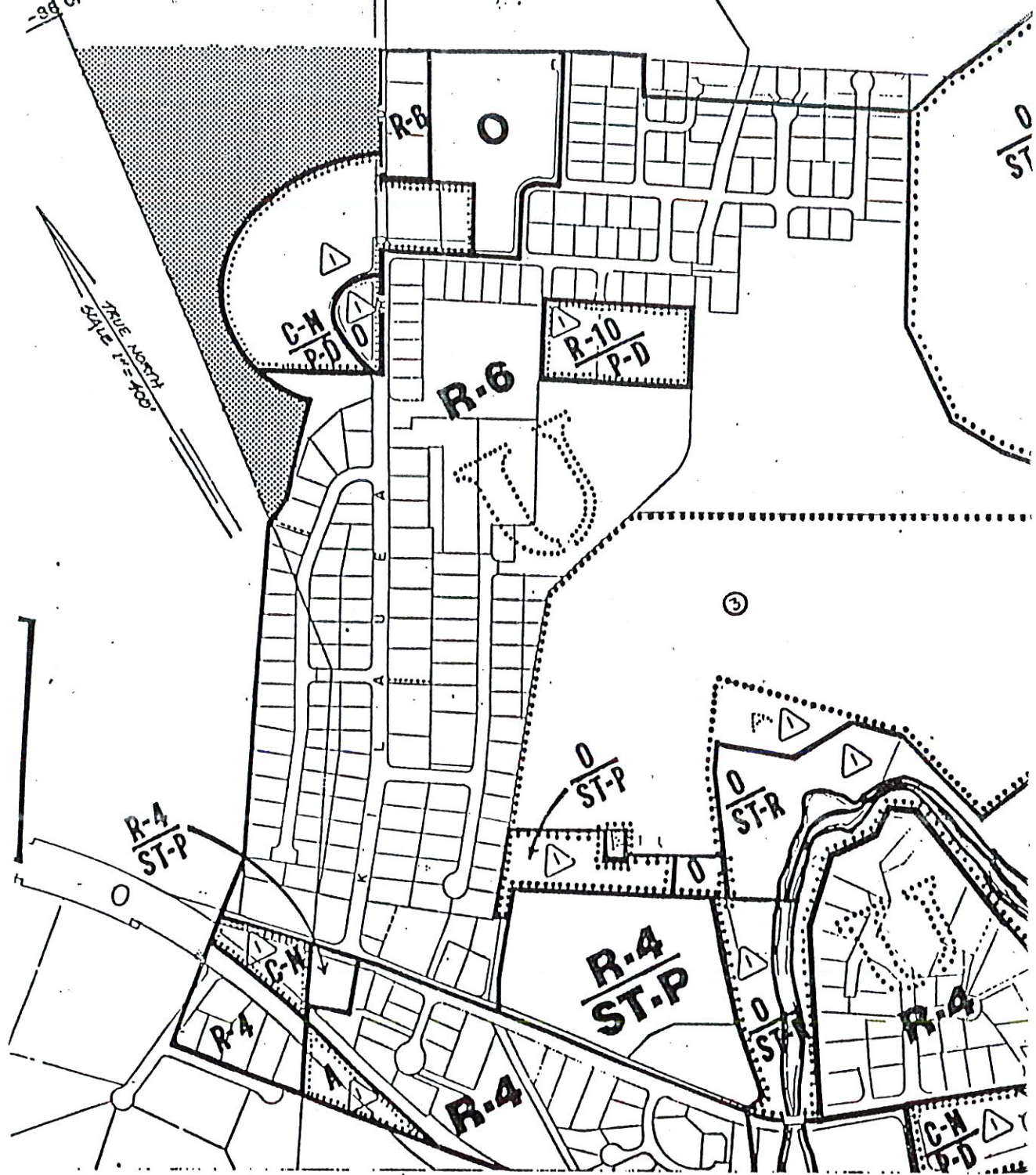
DATE OF TRANSMITTAL TO MAYOR:
May 18, 1988

Approved this 18th day of
May, 1988.



TONY T. KUNIMURA
Mayor
County of Kauai

Ord. No. PM-67-80
 Ord. No. PM-75-81
 DEVELOPMENT PLAN
 Ord. No. PM-139-86



LEGEND.

Proposed District Boundary Amendment
 from Agriculture District to Urban District

LOCATION SHOWING
 PROPOSED LUC DISTRICT BOUNDARY AMENDMENT
 FROM

AREA 24 QUESTION

40 State of Hawaii

84, 85, 86, 87 ARC Partners Ltd.

80
Thomas K. Akutagawa
f w/ Helen K. - T/E

BB *Pennolin Corp.*

90 John R. Brittingham
91 William L. Adelman - T/C - 50%
Stephen L. & Caroline Lewis - T/C

See Cliff Plantation
Kilauea Bay Community Association

83
Lawrence S. Barton - 38.33%
Gordon B. Noble - 53.33%
James J. Hower & Wf

98
Simon Fort - 42 74 %
Magdie Lathif - 31.50 %
d'nf. Sherev
Ileana Carreno-Fernandez - 23.50 % - 1,5

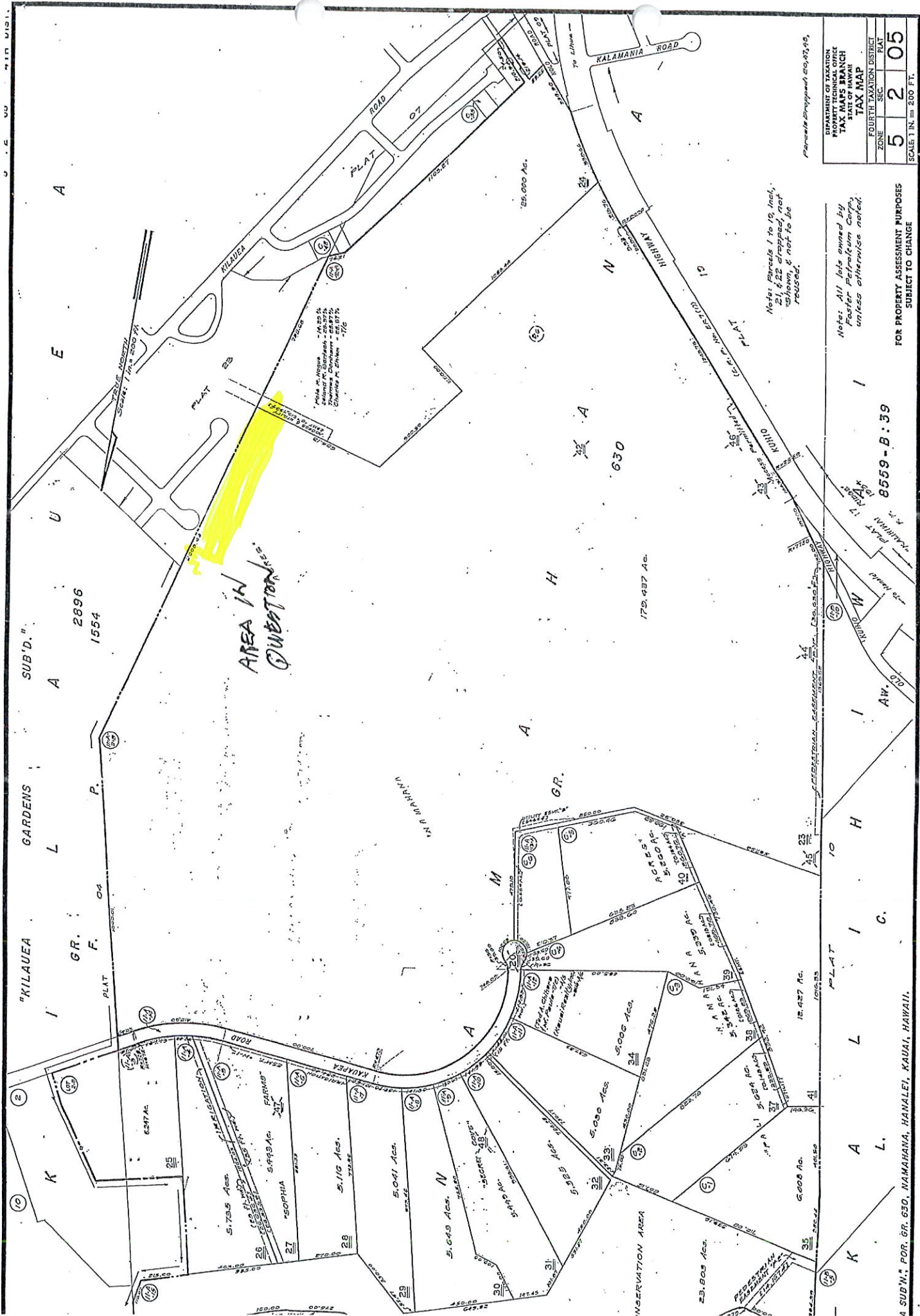
[illegible]

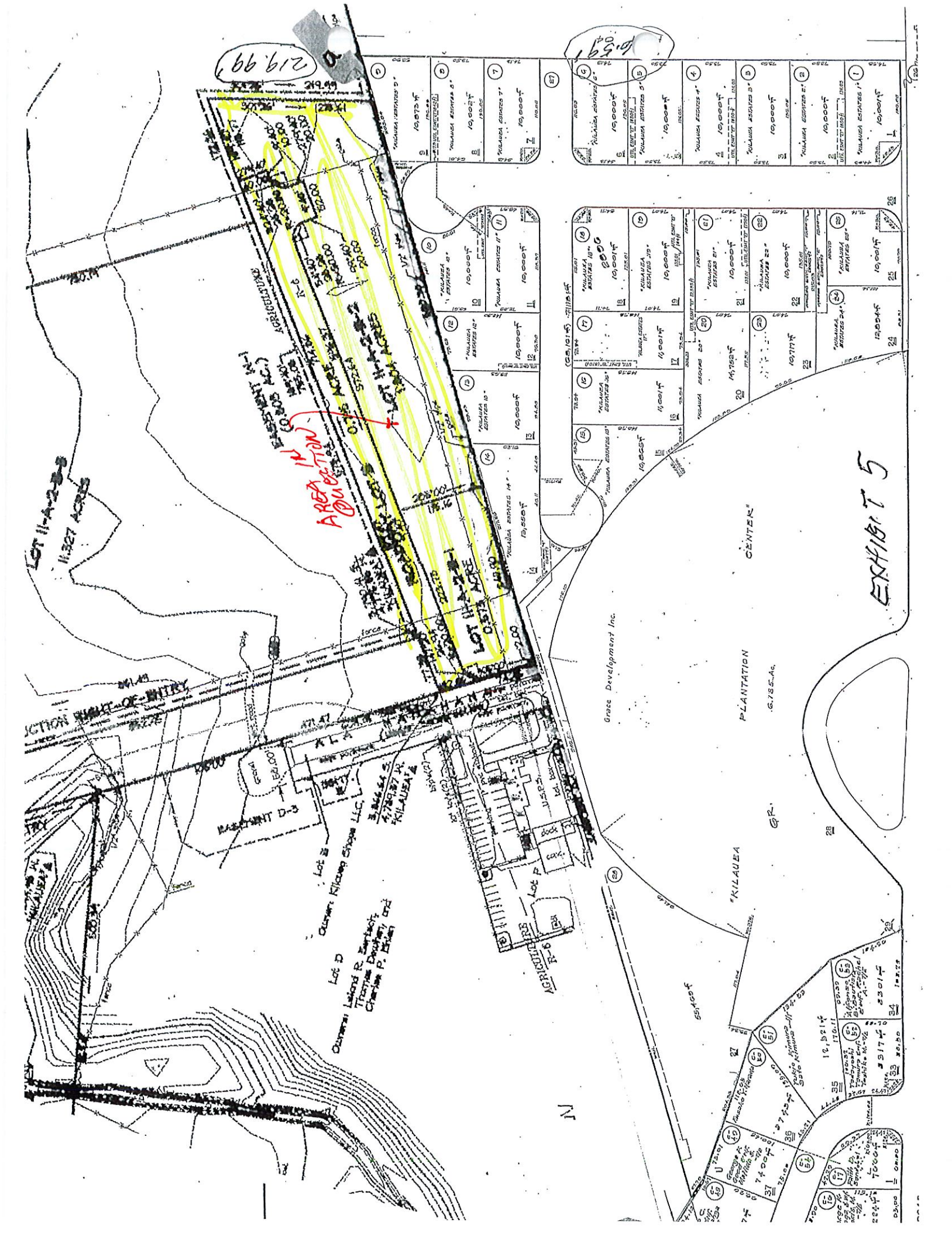
TAXATION MAPS BUREAU TERRITORY OF HAWAII			TAX MAP		FOURTH DIVISION		CONTAINING PARCELS	
ZONE	SEC.	PLAT	5	2	04			

NOTE: Parcel's GE to 71 incl. owned by Theodore R. d: Tullio-50% of Developers Inc. d/s-62, 11200 E. Fong Jr. -178675, and 21-20000 other parcels.

NOTES: 1. The above is a summary of the information received from the various sources mentioned above. It is not intended to be a complete and exhaustive statement of the facts, but rather a summary of the information received from the various sources mentioned above.

SUBJECT TO CHANGE





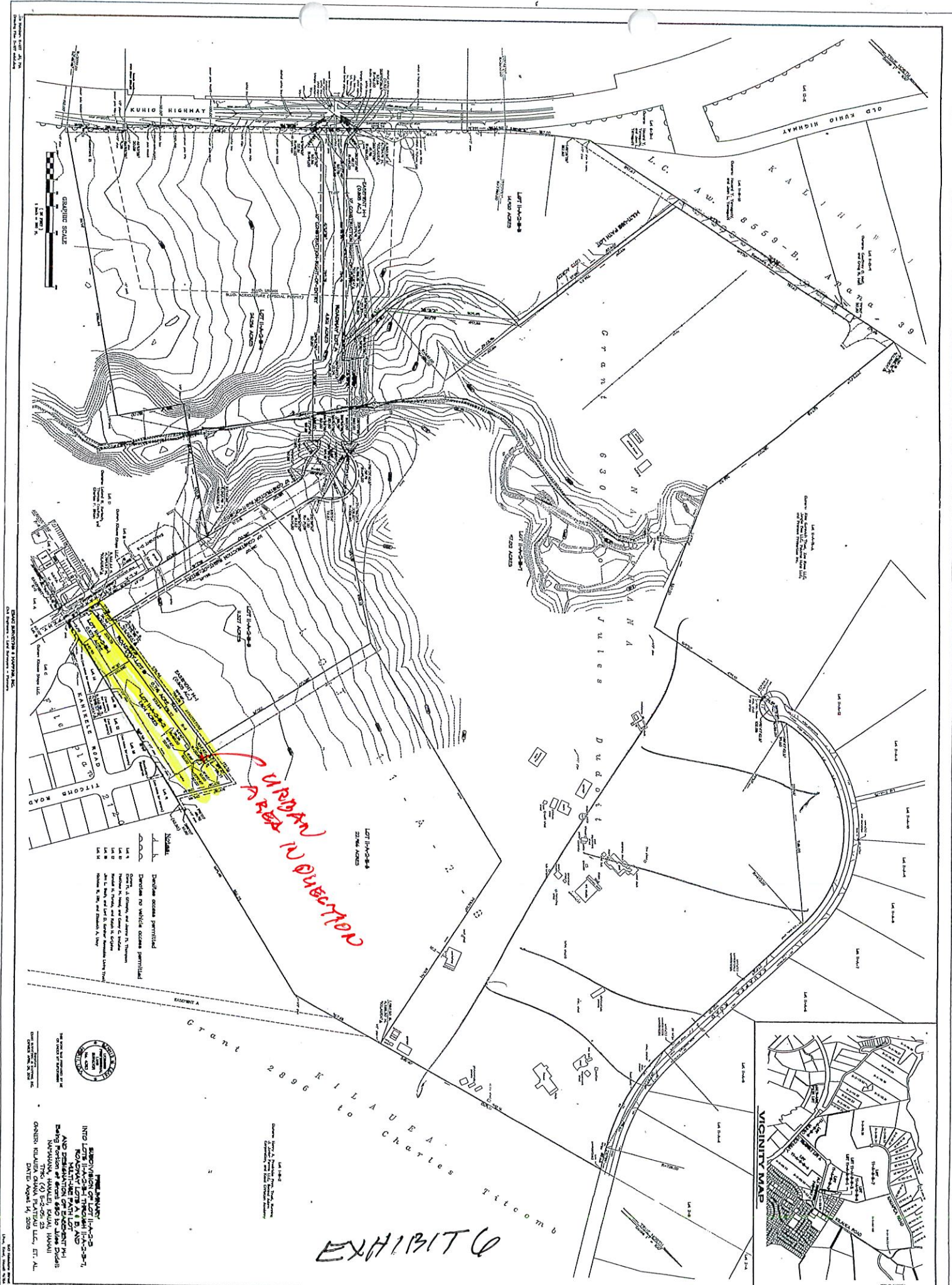
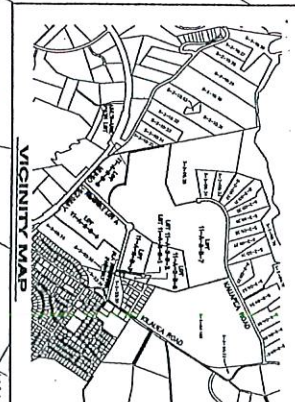


EXHIBIT C



REMARKS:
INTO LOT 11-A-2-31 THROUGH 11-A-2-37,
KOAHOLO LOT 11-A-2-31 AND
AND PRESENTATION OF EVIDENT H-1
NOTATION OF EVIDENT H-1
THE (C) E-2-25-23
OWNER: KILAUEA GAMA PLANTATION, ET AL.
DATE: August 14, 2008

DEVELOPER: KILAUEA GAMA PLANTATION, ET AL.
OWNER: KILAUEA GAMA PLANTATION, ET AL.
DATE: August 14, 2008

DEVELOPER: KILAUEA GAMA PLANTATION, ET AL.
OWNER: KILAUEA GAMA PLANTATION, ET AL.
DATE: August 14, 2008

DEVELOPER: KILAUEA GAMA PLANTATION, ET AL.
OWNER: KILAUEA GAMA PLANTATION, ET AL.
DATE: August 14, 2008

DEVELOPER: KILAUEA GAMA PLANTATION, ET AL.
OWNER: KILAUEA GAMA PLANTATION, ET AL.
DATE: August 14, 2008

DEVELOPER: KILAUEA GAMA PLANTATION, ET AL.
OWNER: KILAUEA GAMA PLANTATION, ET AL.
DATE: August 14, 2008

